

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, MAY 14, 2002  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 10:06 a.m. Council Member Madaffer welcomed his sons' fourth-grade class to the Council Meeting and to City Hall. The meeting was recessed by Mayor Murphy at 12:02 p.m.

The meeting was reconvened by Mayor Murphy at 2:05 p.m. with Council Member Maienschein and Council Member Madaffer not present. Mayor Murphy recessed the meeting at 3:36 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:50 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 3:55 p.m. to convene the Housing Authority. Mayor Murphy reconvened the regular meeting at 4:30 p.m. with all Council Members present. Mayor Murphy announced that the General Services portion of the Fiscal Year 2003 Budget Review would be continued to May 20, 2002. Mayor Murphy adjourned the meeting at 5:35 p.m.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Fishkin(er/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Fishkin called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented regarding the rights of sovereign people. Mr. Stillwell stated that the government owes its existence to the Constitution and the people who created it. Mr. Stillwell recommended reading the book "Vultures in Eagles Clothing." The book explains that there is no law within the Internal Revenue Code making sovereign people liable for the graduated income tax. The right to labor is a non-taxable fundamental right.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A081-116.)

**PUBLIC COMMENT-2:**

David Giacomuzzi stated that he has been a professional activist in San Diego for 15 years. Mr. Giacomuzzi stated that he is present to address the City Council regarding citizens' concerns and informed the Council that he has been a victim of hate crimes and is denouncing hate crimes. He requested that Nicole Ramirez Murray be removed from the Mayor's Advisory Board and from the City's Policing Advisory Council.

Mayor Murphy replied that Mr. Ramirez is not on the GLBT Advisory Board.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A117-155.)

**PUBLIC COMMENT-3: Referred to the City Manager**

Noel Nudeck expressed his concerns regarding the number of curb ramps for wheelchair access and the spending of CDBG monies in District 3. Mr. Nudeck stated that District 3 was at the bottom of the list for installed curb ramps.

Council Member Atkins replied that on July 10 a report is due back to the PS&NS Committee on ADA issues particularly as it relates to pedestrian ramps. Ms. Atkins stated that she has been following this situation closely and it is not her understanding that District 3 is at the bottom of the list for pedestrian ramps. Ms. Atkins requested a status of the pedestrian ramps in her district from the City Manager and assured the residents in District 3 that uppermost in her mind is the issue of replacing sidewalks.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A160-200.)

**PUBLIC COMMENT-4:      Referred to the City Manager**

Tim Clark stated that he came before the Council to discuss Section 84.12 which does not allow coaster-ridden cycles such as skateboards, scooters, or other wheeled vehicles on City roadways. The law needs to be adjusted to allow for alternative transportation riders to get around San Diego. He stated that he does not own a car and does not take up parking spaces. There is new technology in transportation that is very effective and therefore new laws, regulations, and alternative pathway systems need to be created.

Council Member Wear responded that he would be willing to address this issue as part of the Land Use and Housing Committee as it relates to bicycle paths and transportation and perhaps some of the speakers concerns can be addressed.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A233-277.)

**PUBLIC COMMENT-5:**

Nick Moffit stated that two weeks ago he requested that members of the City Council view dangerous conditions that exist on City streets and thus might change the way the City oversees other projects. Only two Council Members acknowledged that they had viewed the street conditions. Mr. Moffit also wished to bring to the attention of the City Council, City employees' extreme and outrageous conduct in relation to an injury he sustained.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A279-329.)

**PUBLIC COMMENT-6:**

Mark McNichols commented regarding the destruction of his medicinal marijuana by the police. Barbara MacKenzie stated that the police raided the home of a care giver for a terminally ill patient. After hearing the news of the raid the patient died. Ms. MacKenzie stated that patients have a right to this medicine and the City has already approved the I.D. cards and the police totally ignore all of this. She requested that something be done.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A333-373.)

**PUBLIC COMMENT-7:**

Michael Aguirre commented that the people of San Diego are having a difficult time figuring out how the City Council can find money for the Padres and the Chargers but can't find the money for the Police. When the Council made the choice to go with the ticket guarantee and with the financing plan proposed by the Mayor for the Padres, a choice was made about the Police. It was a choice to put the Chargers and Padres ahead of the Police.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Tape location: A375-423.)

**PUBLIC COMMENT-8:**

Irving Rawdin commented that as of May 13, 2002, the widening of the boardwalk commenced from Windemere Court North to Portsmouth Court South. There are eight light standards in that area that are not being moved away from the flow of traffic at this time and are a hazard.

Council Member Wear stated that he is aware of this issue and is working with the City Manager to remove the lights as part of Phase I. Mr. Wear assured Mr. Rawdin that the problem was taken care of yesterday.



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for the Regular Meeting of Tuesday, May 14, 2002**

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A424-465.)

**PUBLIC COMMENT-9:**

Cliff McReynolds commented regarding the Ethics Commission. Mr. McReynolds stated that San Diego Alliance for Clean Elections appreciates the Council's struggle to create an effective Ethics Commission.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A467-520.)

**COUNCIL COMMENT:**

**COUNCIL COMMENT-1:**

Council Member Atkins announced that May 17<sup>th</sup> is Bike to Work Day and encouraged everyone to participate.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A525-553.)

**COUNCIL COMMENT-2:**

Mayor Murphy announced that Forbes Magazine selected San Diego as the number one city in American for business and careers out of 200 cities in American.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A555-590.)

**CITY ATTORNEY COMMENT:**

None.

**CITY MANAGER COMMENT:**

None.

ITEM-30: Approval of Council Minutes.

**TODAY'S ACTION IS: APPROVED**

Approval of Council Minutes for the meetings of:

4-15-2002

4-16-2002

**FILE LOCATION: MINUTES**

**COUNCIL ACTION: (Tape location: A005-011.)**

MOTION BY WEAR TO APPROVE. Second by Stevens. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-50: Amending Division 30 of the Municipal Code Regarding Applicability of State Public Contracting Code.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 4/30/2002. (Council voted 9-0):

(O-2002-79) ADOPTED AS ORDINANCE O-19057 (New Series)

Amending Chapter 2, Article 2, Division 30, of the San Diego Municipal Code by amending Section 22.3001; by renumbering existing Section 22.3002 to Section 22.3003; by adding new Section 22.3002; and by amending Section 22.3003 (previously numbered Section 22.3002), all relating to Contracts.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-51: Two actions related to Undergrounding Utility Conversion Program - Cox Cable and Time Warner Cable Franchises.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 4/30/2002. (Council voted 8-1. Councilmember Frye voted nay.):

Subitem-A: (O-2002-114 Cor. Copy) ADOPTED AS ORDINANCE O-19058  
(New Series)

Amending Cox cable franchise by extending the term to 40 years; increasing the franchise fee to 5%; and the City of San Diego agreeing to pay for some costs associated with the Undergrounding Utility Conversion Program utilizing funds

from proposed undergrounding surcharge with remaining costs to be borne by Cox.

Subitem-B: (O-2002-115 Cor. Copy) ADOPTED AS ORDINANCE O-19059  
(New Series)

Amending Time Warner cable franchise in which the City of San Diego agrees to pay for some costs associated with the Undergrounding Utility Conversion Program utilizing funds from the proposed undergrounding surcharge, with remaining costs to be borne by Time Warner.

**NOTE:** 6 votes required for Subitems A and B pursuant to Section 103 of the City Charter.

**FILE LOCATION:** SUBITEM A FRAN - Cox Cable (08)  
SUBITEM B FRAN - Time Warner Cable (08)

**COUNCIL ACTION:** (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-52: Three actions related to Joint Public Library/School Agreements with the San Diego Unified School District and the San Ysidro School District.

(Districts-2 and 8.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 4/30/2002. (Council voted 9-0):

Subitem-A: (O-2002-125) ADOPTED AS ORDINANCE O-19060 (New Series)

Authorizing the City Manager to execute a Joint Use Cooperative Agreement for Joint Use of the future main Library with the San Diego Unified School District

of San Diego County, in support of the City's application for a California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Proposition 14) Grant.

Subitem-B: (O-2002-126 Cor. Copy) ADOPTED AS ORDINANCE O-19061  
(New Series)

Authorizing the City Manager to execute a Joint Use Cooperative Agreement for Joint Use of the future Logan Heights Branch Library with the San Diego Unified School District of San Diego County, in support of the City's application for a California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Proposition 14) Grant.

Subitem-C: (O-2002-127 ) ADOPTED AS ORDINANCE O-19062 (New Series)

Authorizing the City Manager to execute a Joint Use Cooperative Agreement for Joint Use of the Future San Ysidro Branch Library with the San Ysidro School District of San Diego County, in support of the City's application for a California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Proposition 14) Grant.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**FILE LOCATION:** SUBITEMS A, B, & C: MEET

**COUNCIL ACTION:** (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-53: Amendment of EDCO Facility Franchise Agreement.

(Barrio Logan/Shelltown Community Area. District-8.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 4/30/2002 (Council voted 9-0):

(O-2002-130) ADOPTED AS ORDINANCE O-19065 (New Series)

Authorizing the City Manager to execute a first amendment to the Non-Exclusive Solid Waste Facility Agreements with EDCO Disposal Corporation for expansion and continued operation of the EDCO recycling and transfer station.

**NOTE:** 6 votes required pursuant to Section 103 of the City Charter.

**FILE LOCATION:** FRAN-EDCO Disposal Corporation (08)

**COUNCIL ACTION:** (Tape location: E091-129.)

MOTION BY STEVENS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Madaffer. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-54: Lead Safe Neighborhoods Program.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 4/30/2002 (Council voted 9-0):

(O-2002-128 Cor. Copy) ADOPTED AS ORDINANCE O-19063  
(New Series)

Amending Chapter V, Article 4, of the San Diego Municipal Code by adding Division 10, titled "Abatement of Lead Hazards," and by adding Sections 54.1001, 54.1002, 54.1003, 54.1004, 54.1005, and 54.1006, all relating to the Abatement of Lead Hazards.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-55: Lease Agreement - Park It on Market North - Sabrina's Deli.

(Centre City Community Area. District-2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 4/29/2002 (Council voted 9-0):

(O-2002-129) ADOPTED AS ORDINANCE O-19064 (New Series)

Authorizing the City Manager to execute a lease agreement with Magdy and Neli Athnathious d.b.a. Sabrina's Deli located at 625 Sixth Avenue. The initial rent is \$918 per month, commencing March 1, 2002 and terminating February 28, 2007; declaring that the rent paid during FY02, in the amount of \$3,672, will be deposited into Fund 75606.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**FILE LOCATION:** LEAS - Magdy and Neli Athnathious d.b.a. Sabrina's Deli

**COUNCIL ACTION:** (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-100: Asian Pacific Community Forum Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1498) ADOPTED AS RESOLUTION R-296477

Proclaiming May 18, 2002 to be "Asian Pacific Community Forum Day" in the City of San Diego in recognition of their many outstanding contributions and service to the City of San Diego.

**SUPPORTING INFORMATION:**

On Saturday, May 18, 2002, Leadership Education for Asian Pacifics (LEAP), the Asian Business Association of San Diego and the San Diego Mayor API Advisory Group will be holding a community forum, "The 21<sup>st</sup> Century Leader," an Asian Pacific Community Forum focusing on leadership development in San Diego. The community forum will be held at the Double Tree, Mission Valley. In addition to the panel discussion and workshops, LEAP will be holding a Community Faire to provide an opportunity for attendees to learn about local community organizations. A broad cross section of organizations have been invited to distribute materials on their programs and activities. Therefore, the City of San Diego is proclaiming Saturday, May 18<sup>th</sup>, 2002 as "Asian Pacific Community Forum Day."

Maienschein/NB

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-101: Two actions related to Inviting Bids and Award of Contract for Water and Sewer Group Job 651.



(See Frank Belock, Jr.'s 2/6/2002 memo. Kensington Community Area. District-3.)

**TODAY'S ACTIONS ARE:**

Adoption of the following resolutions:

Subitem-A: (R-2002-1394) ADOPTED AS RESOLUTION R-296478

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Sewer and Water Group 651 on Work Order No. 173571/183471;

Authorizing the City Manager to establish contract funding phases and to execute a contract with the lowest responsible and reliable bidder;

Authorizing the use of City Forces for making connections and for performing operational checks in an amount not to exceed \$322,168 from Water Fund 41500, CIP-73-083.0;

Authorizing the expenditure of an amount not to exceed \$3,119,819 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements, and an amount not to exceed \$2,031,653 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for the expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K02208C)

Subitem-B: (R-2002-1395) ADOPTED AS RESOLUTION R-296479

Certifying that Mitigated Negative Declaration LDR-41-0915 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State

guidelines; and that the information contained in the report has been reviewed and considered by Council;

Approving Mitigated Negative Declaration LDR-41-0915;

Adopting the Mitigation Monitoring and Reporting Program;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 2/13/2002, NR&C voted 4-0 to approve. (Councilmembers Peters, Wear, Frye and Madaffer voted yea. Councilmember Inzunza yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

This project is part of the City's concrete sewer and cast iron water replacement program. Water and Sewer Group 651 will replace and realign approximately 10,400 linear feet of existing 6-inch concrete sewer main with new 8-inch and 10-inch sewer mains and 11,000 linear feet of existing 4-inch, 6-inch and 10-inch cast iron water main with new 8-inch and 12-inch water main. This project also abandons approximately 600 feet of existing sewer main located in City easements. The existing facilities were installed as early as 1927, are undersized, deteriorated and are in need of replacement. This project will reduce any stoppages and provide a more reliable sewer and water system for the service area. This project will also install new pedestrian ramps and resurface impacted streets from curb to curb.

The project lies in the Kensington Community Planning Area within the area bounded by 42<sup>nd</sup> Street and Terrace Drive on the east and west and bounded by Middlesex Drive and an alley north of Adams Avenue, on the north and south. Residents will be notified by mail at least one month before construction begins by the City and again ten days before construction begins by the contractor through hand distribution.

The contractor will be required to submit traffic control plans to the City for approval and will also be required to preserve/relocate existing historical stamps.

**FISCAL IMPACT:**

The total estimated construction and related costs are estimated at \$5,151,472, of which

\$3,119,819 is available from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements and \$2,031,653 is available from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacements. This project will be phase funded as follows: Phase I, of the amount \$1,881,030, and Phase II, of the amount \$1,635,221, are to be funded within FY2003; Phase III, of the amount \$1,635,221, is to be funded within FY2004.

Loveland/Belock/HR

WWF-02-572.

FILE LOCATION: Subitems A-B: CONT - BRH Garver Incorporated; W.O.  
173571/183471

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-102: Construction Manager/Program Manager Services with HDR Engineering, Amendment No. 1.

(See City Manager Reports CMR-02-104 and CMR-02-068, and EOCP Evaluation.)

**TODAY'S ACTION IS:**

Adoption of the following resolution:

(R-2002-1488) ADOPTED AS RESOLUTION R-296496

Authorizing the City Manager to execute Amendment No. 1 to an existing agreement with HDR Engineering, Inc., to continue to provide ongoing Construction Manager/Program Manager services;

Authorizing the expenditure of an amount not to exceed \$5,000,000 from Fund Nos. 41506, 41508 and 41509.

Aud. Cert. 2201061.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 4/3/2002, NR&C voted 5-0 to approve. (Councilmembers Peters, Wear, Frye, Madaffer and Inzunza voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: E130-F182.)

MOTION BY ATKINS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-103: Hidden Trails Road.

(Otay Mesa Community Area. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1485) ADOPTED AS RESOLUTION R-296480

Authorizing the City Manager to execute a Subdivision Offsite Right-of-Way Acquisition Agreement for Construction of Public Street Improvements for Ocean View Hills VTM-86-1032, together with any reasonably necessary modifications or amendments which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purpose and intent of the project and agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

The approval and execution of this Subdivision Offsite Right-of-Way Acquisition Agreement is necessary to meet the requirements of Condition 26 of City Council Resolution R-283694, Vesting Tentative Map VTM-86-1032. The agreement provides funds in the amount of \$148,000 to be deposited in a Developer's Trust Account to be used for the acquisition or condemnation of property for right-of-way to complete the construction of Hidden Trails Road.

**FISCAL IMPACT:**

Deposit of \$148,000 into Developer Cont. - NonCIP Fund No. 63024.

Herring/Griffith/RAG

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-104: Two actions related to Princess Del Cerro Neighborhood Park and San Carlos Community Park - Tot Lot Upgrades.

(Navajo Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-1278) ADOPTED AS RESOLUTION R-296481

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Program Budget to add CIP-29-556.0, Princess Del Cerro Neighborhood Park - Tot Lot Upgrade, in the amount of \$230,000, as follows: \$204,000 from 2000 Park Bond Per Capita Funds, Fund No. 38178; and \$26,000 from Park and Recreation Matching Funds, Fund No. 10365, pending receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to expend \$230,000 from CIP-29-556.0, Princess Del Cerro Neighborhood Park - Tot Lot Upgrade (\$204,000 from 2000 Park Bond Per Capita Funding, Fund No. 38178, and \$26,000 from Park and Recreation Matching Funds, Fund No. 10365), pending receipt of a fully executed grant agreement.

Subitem-B: (R-2002-1462) ADOPTED AS RESOLUTION R-296482

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Program Budget to add CIP-29-561.0, San Carlos Community Park - Tot Lot Upgrade, in the amount of \$180,000 from 2000 Park Bond Per Capita Funds, Fund No. 38179, pending receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to expend \$180,000 from CIP-29-561.0, San Carlos Community Park - Tot Lot Upgrade, from 2000 Park Bond Per Capita Funding, Fund No. 38179, pending receipt of a fully executed grant agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

On August 15, 2000, the City Council adopted Resolution R-293698 authorizing the City Manager, or his reyeaative, to secure grant funding from the State of California under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Act of 2000 (Park Bond), including playground upgrades for each Council District. The City Manager has secured the grant funding and has entered into a Grant Contract for Park Bond Per Capita Funds, and a Grant Contract for Roberti-Z'berg-Harris Per Capita Funds with the State of California. In addition, the City Manager will enter into a subcontract with the State of California specifying use of \$204,000 for a tot lot upgrade at Princess Del Cerro Neighborhood Park, and \$180,000 for San Carlos Community Park.

This action authorizes the City Manager, or his reyeaative, to move Park Bond funding and matching funds into the Capital Improvement Project for both Princess Del Cerro Neighborhood Park and San Carlos Community Park Tot Lot Upgrades.

By State law, all public play areas must conform to the Consumer Product Safety Commission and American Society of Testing Materials Guidelines. Additionally, play areas are to be brought into compliance with Americans with Disabilities Act Guidelines. Playground upgrades will include improvements which comply with state and federal safety and accessibility regulations.

**FISCAL IMPACT:**

Funds in the amount of \$230,000 are available from Park- and Recreation Donation Matching Funds, Fund No. 10365 (\$26,000) and 2000 Park Bond Per Capita Funding, Fund No. 38178 (\$204,000) for Princess Del Cerro Neighborhood park - Tot Lot Upgrade. Funds in the amount

of \$180,000 are available from 2000 Park Bond Per Capita Funding, Fund No. 38179 for San Carlos Community Park - Tot Lot Upgrade.

Herring/DVW

Aud. Cert. 2201024.

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-105: Two actions related to Parkside Neighborhood Park And Skyview Neighborhood Park - Tot Lot Upgrade.

(Skyline/Paradise Hills, Lincoln Park Community Areas. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-1277) ADOPTED AS RESOLUTION R-296483

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Program Budget to add CIP-29-520.0, Parkside Neighborhood Park - Tot Lot Upgrade, in the amount of \$79,924, as follows: \$77,000 from 2000 Park Bond Per Capita Funds, Fund No. 38173; and \$2,924 from Park Service District Fees, Fund No. 11710, pending receipt of a fully executed grant agreement;

Appropriating and authorizing the City Auditor and Comptroller to expend \$79,924 from CIP-29-520.0, Parkside Neighborhood Park - Tot Lot Upgrade (\$77,000 from 2000 Park Bond Per Capita Funding, Fund No. 38173, and \$2,924 from Park Service District Fees), pending receipt of a fully executed grant agreement.

Subitem-B: (R-2002-1463) ADOPTED AS RESOLUTION R-296484

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Program Budget to add CIP-29-522.0, Skyview Neighborhood Park - Tot Lot Upgrade, in the amount of \$200,000, as follows: \$198,961 from 2000 Park Bond Per Capita Funds, Fund No. 38175; and \$1,039 from Park Service District Fees, Fund No. 11690, pending receipt of a fully executed grant agreement;

Appropriating and authorizing the City Auditor and Comptroller to expend \$200,000 from CIP-29-522.0, Skyview Neighborhood Park - Tot Lot Upgrade (\$198,961 from 2000 Park Bond Per Capita Funding, Fund No. 38175, and \$1,039 from Park Service District Fees, Fund No. 11690), pending receipt of a fully executed grant agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

On August 15, 2000, the City Council adopted Resolution R-293698 authorizing the City Manager, or his reyeaative, to secure grant funding from the State of California under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Act of 2000 (Park Bond), including playground upgrades for each Council District.

The City Manager has secured the grant funding and has entered into a Grant Contract for Park Bond Per Capita Funds, and a Grant Contract for Roberti-Z' Berg-Harris Per Capita Funds with the State of California. In addition, the City Manager will enter into a subcontract with the State of California specifying use of \$77,000 for a tot lot upgrade at Parkside Neighborhood Park, and \$198,961 for Skyview Neighborhood Park.

This action authorizes the City Manager, or his reyeaative, to move Park Bond funding and matching funds into the Capital Improvement Project for Parkside Neighborhood Park and Skyview Neighborhood Park Tot Lot Upgrades.

By State law, all public play areas must conform to the Consumer Product Safety Commission and American Society of Testing Materials Guidelines. Additionally, play areas are to be brought into compliance with Americans with Disabilities Act Guidelines. Playground upgrades will include improvements which comply with state and federal safety and accessibility regulations.



**FISCAL IMPACT:**

Funds in the amount of \$79,924 are available from 2000 Park Bond Per Capita Funds, Fund No. 38173 (\$77,000), and Park Service District Fees, Fund No. 11710 (\$2,924) for Parkside Neighborhood Park - Tot Lot Upgrade. Funds in the amount of \$200,000 are available from 2000 Park Bond Per Capita Funds, Fund No. 38175 (\$198,961), and Park Service District Fees, Fund No. 11690 (\$1,039) for Skyview Neighborhood Park Tot Lot Upgrade.

Herring/Herring/DVW

Aud. Cert. 2201023.

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-106: Encanto Community Park - Athletic Fields Irrigation.

(Encanto Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1276) ADOPTED AS RESOLUTION R-296485

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Program Budget to add CIP-29-509.0, Encanto Community Park - Athletic Fields Irrigation, in the amount of \$68,950 from 2000 Park Bond Per Capita Funds, Fund No. 38205, pending receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to expend \$68,950 from CIP-29-509.0, Encanto Community Park - Athletic Fields Irrigation, from 2000 Park Bond Per Capita Funds, Fund No. 38205, pending receipt of a fully executed agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

This action authorizes the addition to the FY 2002 Capital Improvements Program of one park project consisting of an upgrade to the existing irrigation system for the Verna Quinn Athletic Field at the Encanto Community Park, located at 6508 Wunderlin Avenue. This irrigation upgrade will improve the condition of the turf and provide a safer playing surface.

On August 15, 2000, the City Council adopted Resolution R-293698 authorizing the City Manager, or his reyeaative, to secure grant funding from the State of California under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Act of 2000 (Park bond). The City Manager has secured the grant funding and has entered into a Grant Contract for Park Bond Per Capita Funds, and a Grant Contract for Roberti-Z'berg-Harris Per Capita Funds with the State of California. In addition, the City Manager will enter into a subcontract with the State of California specifying use of \$68,950 for upgrading the existing irrigation system at the Encanto Community Park athletic fields. This action authorizes the City Manager, or his reyeaative, to move Park Bond funding into the Capital Improvement Project for Encanto Community Park - Athletic Fields Irrigation.

**FISCAL IMPACT:**

Funds in the amount of \$68,950 are available from FY 2002 State Park Trailer Bill Funds, Fund No. 38205 for this purpose.

Herring/Herring/DVW

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-107: Tijuana River Valley 100-Year Flood Control Berm.

(Tijuana River Valley Community Area. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1478) ADOPTED AS RESOLUTION R-296486

Authorizing the City Auditor and Comptroller to reprogram an amount not to exceed \$125,000 Fund 30300, Financing Services Job Order 002200;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Project budget by increasing the appropriation of CIP-12-145.0, Tijuana River Valley 100-Year Flood Control Berm, by an amount not to exceed \$125,000;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$335,000 from CIP-12-145.0, Tijuana River Valley 100-Year Flood Control Berm, for the construction of the project;

Authorizing the City Auditor and Comptroller to return any excess budgeted funds to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

The Tijuana River Valley 100-Year Flood Control Berm project, CIP-12-145.0, provides for the City's 35% local match for the United States Army Corps of Engineers' Small Project Program to construct an earthen berm, approximately 2,800 feet in length, 30 feet in width, and 6 feet in height, along the boundary of the homes at Sunrise Development complex, facing the Tijuana River, from International Road to Hollister Street. The City is responsible for the easement acquisition, and United States Army Corps of Engineers is responsible for design and construction.

In 1993, a flood event impacted the Tijuana River Valley such that flood waters entered the tract housing (The Sunrise Development), a residential subdivision abutting the northern boundary of the Tijuana River floodway, and inundated approximately 20 homes in the development. The City's and the Tijuana River Valley Task Forces' consultant, BSI Consultant, Inc., submitted a Flood Control and Infrastructure Study in November 1994, for the permanent and long term flood control solutions in the valley. The study recommended the construction of an armored berm adjacent to the Sunrise Development because the potential for a 100-year flood event, which, if it should occur, would pose threat to both life and property based on the hydraulic analysis of the existing conditions for 100-year flood event. The project reyeas one of the

alternative solutions that were selected by the Tijuana River Valley Task Force as a permanent and long term flood control solution for the protection of the Sunrise Development.

According to the United States Army Corps of Engineers, the estimated total cost of the project has increased to \$950,000 due to the increase in the construction cost. The additional funds are required to increase the existing appropriation amount up to the required 35% local match per the agreement with the United States Army Corps of Engineers that was approved by Resolution RR-295490.

**FISCAL IMPACT:**

The City's total local match amount for the project is \$335,000, of which \$210,000 is available in CIP-12-145.0, Fund 30300, and \$125,000 is to be transferred from Financing Services Job Order 002200, Fund 30300.

Loveland/Belock/PB

Aud. Cert. 2201051.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-108: Two actions related to the Chollas Creek Enhancement Program and the Chollas Creek South Branch - Phase I Implementation Program and Wetlands Management Plan adoption.

(See Planning Commission Report P-02-037, Chollas Creek Enhancement Program Draft, and Chollas Creek South Branch Phase I Implementation Program and Wetlands Management Plan Draft. Southeastern, Mid-City, Barrio Logan/Harbor 101 Community Areas. Districts-3, 4, 7 and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2002-1512) ADOPTED AS RESOLUTION R-296487

Adopting the Chollas Creek Enhancement Program.

Subitem-B: (R-2002-1513) ADOPTED AS RESOLUTION R-296488

Adopting the Chollas Creek South Branch-Phase I Implementation Program and Wetlands Management Plan.

**CITY MANAGER SUPPORTING INFORMATION:**

The Chollas Creek Enhancement Program establishes guidelines for wetlands restoration and enhancement, trail design, landscaping, a public art component, educational and interpretive sites along the 30 linear miles of Chollas Creek, located in Southeastern San Diego, Mid-City Communities, and Barrio Logan/Harbor 101 planning areas. The Enhancement Program is consistent with existing City Council Policy embodied in approved documents including the Southeastern San Diego Community Plan, Mid-City Communities Plan, the Barrio Logan/Harbor 101 Community Plan, and City Council Ordinance Section 143.0101 et sec. on Environmentally Sensitive Lands Regulations, Section 142.0201 et sec. on Drainage and Floodway Regulations, and City Council Policy 600-14 on Development within Areas of Special Flood Hazard, City Council Policy 800-04 on Drainage Facilities, and City Council Policy 900-11 on Artist Involvement in Selected City Capital Improvement Projects.

The Chollas Creek South Branch - Phase I Implementation Program identifies 8 project segments for implementation based on the Chollas Creek Enhancement Program. The Phase I Implementation Program proposes wetland restoration projects, a trail system adjacent to the creek, and educational center and interpretive signs to complement the local schools curriculum. Available Coastal Conservancy funding of \$1.23 million is proposed to implement a Wetlands Restoration Project in Segments 2A and 8 (Phase I) to create in Segment 2A, a wetlands restoration project with an educational site and interpretive signs; and in Segment 8, at the Southcrest 252 corridor, a wetlands restoration project to be coordinated with the park design currently being developed by Park and Recreation Department staff. In order to implement the improvements in Segments 2A and 8 the City Manager proposes to retain a consultant to be responsible for project management, design and construction. The implementation of this project further expands the City's General Plan and Strategic Framework goals of providing

more amenities in urbanized communities, creating more usable open space, increasing recreational opportunities, and contributing to a restored environment.

There is no Planning Commission recommendation on these documents since no eligible quorum was available prior to City Council hearing.

**FISCAL IMPACT:**

The City approved the application for and acceptance of the Coastal Conservancy reimbursable grant funding for \$1.23 million (in 1999, by Resolution R-291612), for wetlands restoration projects to be used within Phase I of the Chollas Creek Enhancement Program. The City will expend funds on the Wetlands Restoration Project (Phase I) consultant contract for project management, design and construction plans that will implement Segments 2A and 8, subject to City Council adoption of (1) the Chollas Creek Enhancement Program, and (2) the Chollas Creek South Branch - Phase I Implementation Program.

Ewell/Goldberg/LH

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-109: Transfer of Funds - Canyonside Community Park Tennis Courts.

(Rancho Peñasquitos Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1467) ADOPTED AS RESOLUTION R-296489

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$16,331.92 from the Peñasquitos East-Park Development, Fund No. 39085, to CIP-29-441.0, Canyonside Community Park Tennis Courts;

Authorizing the City Auditor and Comptroller to appropriate an amount not to exceed \$16,331.92 to augment previous expenditure authorization for CIP-29-441.0, Canyonside Community Park Tennis Courts, Peñasquitos East-Park Development, Fund No. 39085, for the purpose of completing the Canyonside Community Park Tennis Courts contract with Court Concepts, Inc. (Bid K02004) and related costs;

Authorizing the Auditor and Comptroller, upon the advice from the Engineering and Capital Projects Department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Authorizing the Auditor and Comptroller to amend the Fiscal Year 2002 budget by an increase of \$16,331.92 into CIP-29-441.0.

**CITY MANAGER SUPPORTING INFORMATION:**

Canyonside Community Park is located at 12350 Black Mountain Road in the Rancho Peñasquitos Community Planning Area. The project provides for the addition of six (6) lighted tennis courts, retaining walls, paving, fencing, drainage improvements, landscaping and irrigation. During construction of the project, the finish grading of the courts was raised due to unanticipated geologic conditions. This change resulted in additional ramping, curbs and handrails to meet current Americans with Disabilities Act requirements.

**FISCAL IMPACT:**

The estimated project cost is \$871,611.92 of which \$855,280 has been previously authorized. The balance of \$16,331.92 is available in CIP-29-441.0, Canyonside Community Park Tennis Courts, Peñasquitos East-Park Development Fund No. 39085. The annual maintenance and operation of the courts will be the responsibility of the existing tennis court association.

Loveland/Belock/AO

Aud. Cert. 2201041.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-110: Nomination to the Centre City Development Corporation (CCDC) Board of Directors.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2001-1534) ADOPTED AS RESOLUTION R-296490

Nominating the following persons for election to the Centre City Development Corporation Board of Directors by the Mayor:

NOMINEE

Julie Dillon (Real Estate)

Reese A. Jarrett (Real Estate)

Victor A. Vilaplana (Law)

Declaring that Julie Dillon and Reese A. Jarrett are re-elected to the Centre City Development Corporation Board of Directors, for terms ending May 1, 2005;

Declaring that Victor A. Vilaplana is elected to the Centre City Development Corporation Board of Directors, to replace Daniel Guevara, whose term has expired, for a term ending May 1, 2005.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A020-052.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- ITEM-150: Two actions related to License Agreement with CityNet Telecommunications, Inc.



(See City Manager Reports CMR-02-044 and CMR-01-193, 11/14/2001 Memorandum of Law, 11/9/2001 Memorandum of Law, and CityNet Fact Sheet. Downtown, Mission Valley, and Golden Triangle Community Areas. Districts-1, 2, 3, 5 and 6.)

**TODAY'S ACTIONS ARE:**

Adoption of the following resolutions:

Subitem-A: (R-2002-1108) ADOPTED AS RESOLUTION R-296497

Authorizing the City Manager to execute a license agreement with CityNet Telecommunications, Inc. to install a fiber optic network within the City of San Diego sewer and storm water collection systems; Declaring that any revenues generated through CityNet's use of the storm water system are used to benefit the storm water system.

Subitem-B: (R-2002-1109) ADOPTED AS RESOLUTION R-296498

Establishing Council Policy No. 600-44 regarding placement of wire communication in sewer and storm water pipes;

Instructing the City Clerk to add the policy to the Council Policy Manual.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/14/2001, NR&C voted 3-2 to recommend approval with direction to (a) The City Attorney to draft an ordinance prohibiting installation of any device which could puncture the inner surface of the pipe, (b) provide limitation, by policy or ordinance, to restrict a maximum percentage of obstruction of overall wastewater pipe, (c) evaluate the effect of the "common carrier" status of CityNet and the relationship to the Telecommunications Act, (d) provide the City Council with a cost benefit analysis and clarification on annual cumulative savings gained by City, (e) provide clarification on the value of service the City is providing by allowing companies to use the City's sewer system, (f) provide the City Council assurance that the City retains full ability to televise wastewater pipes, (g) ensure that any revenues gained through the storm drain system remain within the storm drain funds to benefit the system, and (h) provide the City Council a comparison review of existing CityNet agreements with other cities, including compensation received. (Councilmembers Peters, Wear and Madaffer voted yea. Councilmembers Frye and Inzunza voted nay.)

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Tape location: E141-F084.)

MOTION BY PETERS TO ADOPT THE RESOLUTION AND TO REFER THE OTHER TECHNOLOGY ISSUES TO THE NATURAL RESOURCE COMMITTEE TO STUDY. Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-151: Two actions related to Mira Mesa FY 2002 Public Facilities Financing Plan and Facilities Benefit Assessment (FBA).

(See City Manager Report 02-090; Public Facilities Financing Plan and FBA, Fiscal Year 2002, January 2002 Draft. Mira Mesa Community Area. District-5.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2002-1480) ADOPTED AS RESOLUTION R-296491

Approving the document titled "Mira Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2002, January 2002 Draft."

Subitem-B: (R-2002-1479) ADOPTED AS RESOLUTION R-296492

Resolution of Intention to designate area of benefit in Mira Mesa and setting the time and place for holding a public hearing.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 5/1/2002, LU&H voted 5-0 to approve the City Manager's recommendation. (Councilmembers Peters, Wear, Stevens, Maienschein and Frye voted yea.)

FILE LOCATION: SUBITEMS A & B: STRT-FB-12-02 (33)

COUNCIL ACTION: (Tape location: C388-398.)

MOTION BY WEAR TO ADOPT. Second by Atkins. Passed by the following vote:  
Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Tax and Revenue Anticipation Notes (TANS) FY2002-2003.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1525) ADOPTED AS RESOLUTION R-296499

Authorizing the City Manager to execute an agreement with Stradling, Yocca,  
Carlson & Rauth, for bond counsel and disclosure counsel for Fiscal Year 2002-  
03 Tax Anticipation Notes;

Authorizing the expenditure of an amount not to exceed \$55,000 from Fund  
65013, Dept. 65013, Org. 2000, Account 4141, J.O. 65013.

**SUPPORTING INFORMATION:**

The City normally experiences cash flow deficits during the fiscal year in the General Fund as a result of uneven timing of receipt of revenues while expenditures occur at level amounts throughout the year. The uneven pattern of revenue is primarily due to the receipt of secured property tax payments, which occur in December and April of each year, and reimbursements from the State of California and federal government agencies. In order to pay operating expenses prior to the receipt of the revenues, the City issues short term financing in the form of Tax Anticipation Notes (TAN). The TAN program is self supporting in that the interest revenue earned on the reinvestment of the notes proceeds pays for the debt service and any costs or expenses associated with the issuance of the notes. The City has retained Stradling Yocca Carlson & Rauth as Bond Counsel and Disclosure Counsel pursuant to an agreement.

**FISCAL IMPACT:**

Earnings received as a result of reinvesting the Note proceeds will offset all costs of issuing the Notes.

Devaney/JL

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: D336-338.)

MOTION BY STEVENS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: FY2003 Tax Anticipation Note (TAN) Financing.

**CITY TREASURER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1509) ADOPTED AS RESOLUTION R-296500

Authorizing the issuance of Tax Anticipation Notes in one or two series of the City of San Diego for Fiscal Year 2002-2003, in an aggregate principal amount not to exceed the lesser of \$150,000,000 or the maximum amount permitted under the Authorizing Law;

Pledging as security for the payment of the principal of and interest on the Notes, as follows: (1) from the first property tax moneys received by the City on or after November 30, 2002 and (2) from the remaining property tax moneys received by the City on or after April 10, 2003;

Authorizing the City Manager to sell the Notes at a public sale, provided the true interest cost of the Notes shall not exceed 4% per annum and the aggregate principal amount of the Notes shall not exceed the lesser of \$150,000,000 or the maximum amount permitted under the Authorizing Law, as certified by the City Treasurer pursuant to the completed Accompanying Document;

Authorizing the Treasurer to execute agreements with a paying agent duly authorized under California law, to act as Paying Agent for the Notes;

Authorizing the City Manager to execute and deliver the Accompanying Document, including the Notice Inviting Bids and the Paying Agent Agreement;

Authorizing the City Manager to accept the final terms of the Notes based on best bid or bids received by Grant Street Group, the internet website auction administrator on or before June 15, 2002, with respect to the first series of Notes, and on or before November 30, 2002, with respect to the second series of Notes (if any), provided in each case that the true interest cost of the Notes shall not exceed 4% per annum;

Approving the proposed form of the Preliminary Official Statement to be used in connection with the offering and sale of the Notes and authorizing the City Treasurer to cause the preparation of the final form of the Preliminary Official Statement within the meaning of 17 C.F.R. Section 240.15c2-12(b) (Rule); authorizing the City Treasurer to execute and deliver to the bidders a final Official Statement; Authorizing the Grant Street Group/MiniAuction to distribute copies of the Preliminary Official Statement;

Authorizing the City Manager, the Treasurer or designee to execute and deliver a Tax Certificate prepared by Bond Counsel obligating the City to comply with certain covenants in order to maintain the exclusion of interest on the Notes from the gross income of the owners thereof for federal income tax purposes;

Authorizing the City Manager, the City Treasurer, the City Clerk and the City Auditor and Comptroller, and their designated assistants, upon advice of the City Attorney and Bond Counsel, jointly and severally, to do any and all things and to execute, modify and deliver any and all documents, agreements and certificates which they may deem necessary or advisable in order to effect the issuance, sale and delivery of the Notes.

**SUPPORTING INFORMATION:**

The City normally experiences cash flow deficits during the fiscal year in the General Fund as a result of uneven timing of the receipt of revenues while expenditures occur at level amounts throughout the fiscal year. The uneven pattern of the revenue is primarily due to the receipt of secured property tax payments, which occur in December and April of each fiscal year, as well as reimbursements from the State of California and federal government agencies.

In order to pay operating expenses prior to the receipt of the revenues, the City issues short term financing in the form of Tax Anticipation Notes(TAN). The TAN program is self supporting in that the interest revenue earned on the reinvestment of the note proceeds pays for the debt service and any costs or expenses associated with the issuance of the notes.

**FISCAL IMPACT:**

Earnings received as a result of reinvesting the TAN proceeds will offset all costs of issuing the Notes.

Frazier/Vattimo/RD

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: D336-338.)

MOTION BY STEVENS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-202: Four actions related to Fiscal Year 2002-2003 Salary Ordinance and Resolutions.

**PERSONNEL DIRECTOR'S RECOMMENDATION:**

Introduce the ordinance in Subitem A and adopt the resolutions in Subitems B, C and D:

Subitem-A: (O-2002-136 2<sup>nd</sup> Cor. Copy 5/15/02) INTRODUCED, TO BE  
ADOPTED ON TUESDAY,  
MAY 28, 2002

Introduction of an Ordinance establishing a Schedule of Compensation for  
Officers and Employees of the City of San Diego for Fiscal Year 2002-2003.

Subitem-B: (R-2002-1499) ADOPTED AS RESOLUTION R-296501

Adoption of a Resolution establishing overtime eligibility of Classifications in the  
Classified Service.

Subitem-C: (R-2002-1500) ADOPTED AS RESOLUTION R-296502

Adoption of a Resolution amending employee reyeaation units to add new  
classifications and remove deleted classifications from existing appropriate units  
as established in the Fiscal Year 2002-2003 Salary Ordinance.

Subitem-D: (R-2002-1501) ADOPTED AS RESOLUTION R-296503

Adoption of a Resolution authorizing classifications eligible for the Management Benefits Plan.

FILE LOCATION: SUBITEM A: NONE  
SUBITEMS B, C, D: MEET

COUNCIL ACTION: (Tape location: D591-E124.)

MOTION BY WEAR TO INTRODUCE THE ORDINANCE, AND TO ADOPT THE RESOLUTIONS. Second by Inzunza. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

#### ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who then shall transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 5, 2002 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/24/02	165	Last Date (10:00 a.m.) for public to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	6/05/02	153	Rules Committee review of ballot proposals

Monday	6/17/02	141	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	6/24/02 Through	134 to	Council adopts propositions for ballot; directs City Attorney to prepare
Monday	7/22/02	106	ordinances
Monday	7/29/02	99	Council adopts ordinances prepared by City Attorney
Friday	8/09/02	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	8/22/02	75	Last day to file ballot arguments with City Clerk

If you have any questions, please contact the Office of the City Clerk, 533-4025.

ITEM-330: Housing Trust Fund FY03 Implementation Strategy.

(See San Diego Housing Commission Report HCR02-016.)

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2002-1419) ADOPTED AS RESOLUTION R-296504

Authorizing the Housing Trust Fund One-Year Implementation Strategy for Fiscal Year 2003.

**NOTE:** See Item 3 on the Housing Authority Agenda of May 14, 2002 for a companion item.



FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C055-058.)

MOTION BY WEAR TO ADOPT. Second by Atkins. Passed by the following vote:  
Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: Clay Residence.

Matter of approving, conditionally approving, modifying or denying a request for a Coastal Development Permit/Sensitive Coastal Resources Permit/ Conditional Use Permit/ Easement Vacation to construct a 2,941 square foot addition to an existing 2-story single family residence, including guest quarters (office) and pool; to abandon an existing storm drain easement under the residence; and to construct a new storm drain along Camino De La Costa and connect to an existing outfall in the public right of way. The project site is located at 5832 Camino De La Costa and is zoned R1-5000. The following overlay zones apply to the site: Coastal Zone (Coastal Commission Appeal Jurisdiction); Coastal 30' Height Limit; Beach Impact Area; First Public Roadway; and Sensitive Coastal Resource Overlay Zone.

(CDP/SCR/CUP/EV-99-0940. La Jolla Community Plan Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolutions in subitems A and C; and adopt the resolution in subitem B to grant the permit:

Subitem-A: (R-2002-1433) ADOPTED AS RESOLUTION R-296505

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration LDR No. 99-0940 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any

comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the land use actions for the Clay Residence Project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2002- ) GRANTED PERMIT, ADOPTED AS RESOLUTION  
R-296506

Adoption of a Resolution granting or denying Coastal Development/Sensitive Coastal Resource/Conditional Use Permit No. 99-0940, with appropriate findings to support Council action.

Subitem-C: (R-2002-1434) ADOPTED AS RESOLUTION R-296507

Adoption of a Resolution certifying that the drainage easement located within Lot 13, Block 2A of Map 1810, as more particularly described in Exhibit "A" and shown on Drawing No. 19685-B is ordered vacated;

That the Resolution shall not become effective unless and until the applicant relocates and constructs a new storm drain system satisfactorily to the City Engineer;

In the event the above conditions are not completed within two years following the adoption of this Resolution, then this Resolution shall become void and be of no further force or effect;

The City Engineer shall advise the City Clerk of the completion of the aforementioned conditions, and the City Clerk shall then cause a certified copy of this Resolution with Exhibit "A" and Drawing No. 19233-B, attested by him under seal, to be recorded in the Office of the County Recorder.

**OTHER RECOMMENDATIONS:**

Planning Commission on February 21, 2002, voted 6 - 0 to approve; no opposition.

Ayes: Butler, Brown, Anderson, Lettieri, Garcia, Stryker  
Yea: Schultz

The La Jolla Community Planning Group has recommended approval of the project.

**SUPPORTING INFORMATION:**

This is a request for a Coastal Development Permit/Sensitive Coastal Resources Permit/Conditional Use Permit/Easement Vacation to construct a 2,941 square foot addition to an existing 2-story single family residence, including guest quarters (office) and pool; to abandon an existing storm drain under the house; and to construct a new storm drain to connect to an existing outfall in the public right of way. This project was deemed complete prior to January 1, 2000, the effective date of the Land Development Code; therefore the project was reviewed under the previous Municipal Code. The project site is zoned R1-5000 and is located on a coastal bluff at 5832 Camino De La Costa within the Coastal Zone (State Coastal Commission appeal jurisdiction area), the Beach Impact Area, and First Public Roadway of the La Jolla Community Plan area. An Easement Vacation is requested with the project in order to abandon an existing City storm drain which currently runs under the house. A new storm drain line is proposed for construction in the public right-of-way of Camino De La Costa which would connect to and upgrade an existing storm drain outfall approximately 150 feet north of the site in a public right-of-way.

The project complies with all applicable regulations of the Municipal Code in effect at the time of project submittal. No variances are requested. A deviation from the standard coastal bluff setback is requested for the remodel of the single family residence and is permitted by the Sensitive Coastal Resources ordinance.

**TRAFFIC IMPACT:**

This project is the remodel and expansion of an existing single family residence which generates approximately 10 Average Daily Trips (ADT). No additional ADTs would be generated with this project. This number of ADT has no significant impact to any roadway system.

**FISCAL IMPACT:**

None with this action. All Development Services Department processing costs are recovered from a deposit account funded by the applicant.

Ewell/Christiansen/VG

**LEGAL DESCRIPTION:**

The project site is 15,112 square feet and is zoned R1-5000. The proposed project is located at 5832 Camino De La Costa, between Chelsea Avenue and Costa Place, within the Coastal Zone and the La Jolla Community Planning area and is more particularly described as Lot 13, Block 2A, La Jolla Hermosa, Map 1810.

**FILE LOCATION:** SUBITEMS A, B, & C: LUP - Clay Residence 05/14/02  
(65)

**COUNCIL ACTION:** (Tape location: D132-580.)

Hearing began at 2:30 p.m. and halted at 2:45 p.m.

MOTION BY PETERS TO ADOPT THE RESOLUTIONS IN SUBITEMS A & C, AND TO ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE PERMIT. Second by Maienschein. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-332: Olson Industrial Lot.

Matter of approving, conditionally approving, modifying or denying a development project to utilize a 13.6 acre vacant parcel as an equipment and material storage yard with access by a driveway within an existing street

reservation and a rezone from the AR-1-1 to the IL-2-1 zone, on a site located north of Olson Drive and south of the BN&SF Railroad R.O.W. within the boundaries of the University Community Plan.

(SDP-2468/RZ-40-0495/Public Right-of-Way Use Permit-5500/Project-1384/MND LDR-40-0495. University Community Plan Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolution in subitem A; adopt the resolution in subitem B to grant the permits; and introduce the ordinance in subitem C:

Subitem-A: (R-2002-1524) ADOPTED AS RESOLUTION R-296493

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration, LDR No. 40-0495, SCH No. 2002021019, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgement of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the land use actions for the Olson Industrial Lot development, Project No. 1384;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2002- ) GRANTED PERMITS, ADOPTED AS RESOLUTION  
R-296494

Adoption of a Resolution granting or denying Site Development Permit No. 2468 and Public Right-of-Way Use Permit No. 5500, with appropriate findings to support Council action.

Subitem-C: (O-2002-137) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
MAY 28, 2002

Introduction of an Ordinance changing 13.6 acres located north of Olson Drive and south of the BNSF Railroad Right-of-Way easterly of Interstate 805, within the University Community Plan area, in the City of San Diego, California, from the AR-1-1 zone into the IL-2-1 zone, as defined by San Diego Municipal Code section 131.0603; and repealing Ordinance No.O-10936 (New Series), adopted September 5, 1972, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

**OTHER RECOMMENDATIONS:**

Planning Commission on April 4, 2002, voted 6 - 0 to approve staff's recommendations as outlined in report to the Planning Commission No. P-02-038; no opposition.

Ayes: Butler, Brown, Anderson, Lettieri, Schultz, Garcia

Vacant: Stryker The University Community Planning Group on October 10, 2000, voted 14-0-2 to recommend this project be approved as proposed based on conformity to the land use of the plan.

**SUPPORTING INFORMATION:**

This project proposes a construction equipment and materials storage yard on a 13.6 acre site through a rezone from AR-1-1 to the IL-2-1 zone and a Site Development Permit. Access is through a Street Reservation by a Public Right-of-Way Use Permit. Located in the University Community plan area generally east of I-805 between the BN&SF Railroad and Olson Drive. Surrounding developed property is an industrial park.

The Planning Commission considered this project on April 4, 2002, and voted 6-0 on Consent Calendar to recommend that the City Council adopt City staff recommendations to approve the project, as yeaed in the Planning Commission Report No. P-02-038.

There was no opposition to the project. The University Community Planning Group voted 14-0-2 on October 10, 2000, to recommend that the project be approved based on conformity to the adopted community plan and no issues with the proposed use. Because there will be no structures or employees based on the site, the United States Marine Corps., Miramar Air Station, determined that the project complied with recorded easements with the United States government.

The City Manager recommends that the City Council adopt the Rezone Ordinance, and approve the Site Development and Public Right-of-Way Use Permit Nos. 2468 and 5500. The City Council must first certify the Mitigated Negative Declaration, LDR No. 40-0495 and adopt the MMRP.

**WATER QUALITY:**

Page 4 of the Planning Report contains information on Water Quality issues.

**TRAFFIC IMPACT ANALYSIS:**

A Traffic Impact Analysis response will be distributed with materials for the City Council Agenda.

**FISCAL IMPACT:**

All costs associated with the project are recovered from a deposit provided by the applicant.

Ewell/Christiansen/RMK

**LEGAL DESCRIPTION:**

The proposed project site is located at 9905 Olson Drive in the University Community Planning Area and is more particularly described as all portions of Lot 1 lying southerly of the southerly line of the 200 foot right-of-way of the Atchison, Topeka, and Santa Fe railway company; and Parcel 4 of Eastgate Industrial Center, Map No. 12010.

<b><u>FILE LOCATION:</u></b>	SUBITEMS A & B: PERM - <u>O</u> lson Industrial Lot 05/14/02 (65)
	SUBITEM C: NONE
<b><u>COUNCIL ACTION:</u></b>	(Tape location: C379-386.)

Hearing began at 11:55 a.m. and halted at 11:57 a.m.

MOTION BY MAIENSCHIN TO ADOPT THE RESOLUTION IN SUBITEM A; ADOPT THE RESOLUTION IN SUBITEM B TO GRANT THE PERMITS; AND INTRODUCE THE ORDINANCE IN SUBITEM C. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S500: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

(Continued from the meeting of May 7, 2002, Item 111, at the request of Councilmember Atkins, as a courtesy to allow Councilmember Madaffer and Councilmember Inzunza to be yeas to vote on this item.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2002-1466) ADOPTED AS RESOLUTION R-296495

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER'S SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.



FILE LOCATION: GEN'L - Local Health Emergency due to the spread of  
Hepatitis C Virus and the Human Immunodeficiency Virus  
(HIV)

COUNCIL ACTION: (Tape location: C244-239.)

MOTION BY INZUNZA TO ADOPT. Second by Atkins. Passed by the following vote:  
Peters-yea, Wear-yea, Atkins-yea, Stevens-nay, Maienschein-nay, Frye-yea,  
Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

**NON-DOCKET:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 5:35 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: H335.)